

**Notice of Allowability**

Application No.

09/835,033

Examiner

Nhan T. Tran

Applicant(s)

SAH, ADAM D.

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 11/1/2005.
2. ☒ The allowed claim(s) is/are 19-26, 30-36, 39 and 40.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                     | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|  | 9. <input type="checkbox"/> Other _____   |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments & amendments filed 11/1/2005 with respect to claims 19-26, 30-36 & 40 have been fully considered and are persuasive. The rejection of these claims has been withdrawn.

### *Allowable Subject Matter*

2. Claims 19-26, 30-36, 39 & 40 are allowed.

The following is an examiner's statement of reasons for allowance:

Regarding independent claim 19, the prior art of record fails to teach or fairly suggest the combination of all limitations required in claim 19 that includes **“(d) determining whether to increase the refresh period, wherein the step of determining whether to increase the refresh period comprises determining: whether the image is visually obstructed on the user's computer system, wherein the act of determining whether the image is visually obstructed on the user's computer system comprises determining whether the image is covered by a window, (e) increasing the refresh period in response to determining that the image is visually obstructed on the user's computer system.”**

Regarding independent claim 31, the prior art of record also fails to teach or fairly suggest the combination of all limitations required in claim 31 that includes **“the refresh rate logic is in communication with an activity monitor configured to monitor activity of the user, wherein the refresh rate logic is configured to determine whether the refresh period**

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**should be changed based at least in part on one or more communications from the activity monitor, wherein the activity monitor is configured to monitor whether the image is visually obstructed on the user's computer system."**

Regarding independent claim 36, the prior art of record also fails to teach or fairly suggest the combination of all limitations required in claim 36 that includes **"(d) determining whether to increase the refresh period, wherein the step of determining whether to increase the refresh period comprises determining whether the image is visually obstructed on the user's computer system; and (e) increasing the refresh period in response to determining that the image is visually obstructed on the user's computer system."**

Regarding claims 20-26, 30 & 40, these claims depend from claim 19.

Regarding claims 32-35, these claims depend from claim 31.

Regarding claim 39, this claim depends from claim 36.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhan T. Tran whose telephone number is (571) 272-7371. The examiner can normally be reached on Monday - Thursday, 7:30am - 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NT.



DAVID OMETZ  
SUPERVISORY PATENT EXAMINER